

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

ERASCAR JAVIER ENCARNACION-MORETA,
Defendant.

CRIMINAL NO. 20-062 (ADC)

MOTION RE: AMENDMENT 821

TO THE HONORABLE COURT:

The defendant, Erascar Javier Encarnación-Moreta (“Mr. Encarnacion”), represented by the Federal Public Defender for the District of Puerto Rico through the undersigned attorney respectfully states:

1) On April 27, 2023, the United States Sentencing Commission (“USSC”) voted to promulgate Amendment 821 to the Sentencing Guidelines, which would revise how a defendant’s criminal history category is computed.

2) As relevant to this motion, Part B, Subpart 1 of Amendment 821 creates a new Chapter Four guideline at section 4C1.1 to provide a decrease of two levels for “Zero-Point Offenders”—defendants who have no criminal history points—whose offense did not involve specific aggravating factors.

3) On August 24, 2023, the USSC approved by majority vote to make Part B retroactive, effective November 1, 2023.

4) Mr. Encarnacion is currently serving a term of imprisonment for a controlled substance offense conviction. He was sentenced on November 3, 2021, to

a term of imprisonment of 87 months as to Count One of the Indictment. (*See* Judgment, Docket No. 92.)

5) After conducting a preliminary review of the record, it appears that Mr. Encarnacion is a “Zero-point Offender” and would be eligible for a modification of his sentence under 18 U.S.C § 3582(c)(2) relating to this retroactive amendment.

In lieu of the above, Mr. Encarnacion requests that the Court take notice of the present motion for reduction of sentence and that the above-captioned case be referred to a United States Magistrate Judge for initial screening for purposes of determining eligibility.

I certify that on this date I electronically filed the present motion with the Clerk of Court using the CM/ECF system, which will and electronic notification of this filing to all parties of record.

In San Juan, Puerto Rico, this 4th of December of 2023.

RACHEL BRILL
Federal Public Defender
District of Puerto Rico

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